

Message Text

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INFO OCT-01 ISO-00 /001 R

DRAFTED BY EA/PRCM:JSROY:MHS

APPROVED BY EA:RHMILLER

S/S-O: L.MATTESON

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FM SECSTATE WASHDC

TO USLO PEKING IMMEDIATE

S E C R E T STATE 248454

NODIS

E.O. 11652: XGDS-3

TAGS: EFIN, CH

SUBJECT: US/PRC CLAIMS NEGOTIATIONS

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FOLLOWING IS A REPEAT OF STATE 209591, DATED OCTOBER 24,
1973, TO PEKING

BEGIN QUOTE:

1. AS MENTIONED SEPTTEL, USLO SHOULD MAKE PRESENTATION TO
APPROPRIATE LEVEL OF MFA ALONG FOLLOWING LINES RE CLAIMS
SETTLEMENT.

A. SECRETARY WOULD BE PREPARED DURING VISIT TO
PEKING TO FORMALIZE PRIVATE CLAIMS/BLOCKED
ASSETS SETTLEMENT ON BASIS OF DRAFT PRESENTED TO PRC
THROUGH PARIS LAST MARCH 21 RPT 21. SETTLEMENT WOULD
REMOVE FUNDAMENTAL LEGAL OBSTACLE TO TRADE AND PAVE WAY
FOR FURTHER NORMALIZATION OF US-PRC TRADE RELATIONS IN WIDE
VARIETY OF AREAS, INCLUDING MANY WHICH WOULD HELP PRC
IMPROVE TRADE AND PAYMENTS BALANCE WITH U.S., E.G., TRADE

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EXHIBIT IN U.S., SHIPPING, ETC.

B. WHILE WE ARE NOT SUGGESTING OVERALL DISCUSSION THIS SUBJECT BEFORE SECRETARY'S ARRIVAL, ONE POINT MAY WARRANT PRELIMINARY CLARIFICATION. INFORMAL DISCUSSION ON NUMBER OF OCCASIONS WITH PRC OFFICIALS HAS LED US TO CONCLUSION THAT PRC MAY NOT BE ENTIRELY CLEAR ABOUT U.S. POSITION ON BONDHOLDERS' CLAIMS.

C. WE RAISED BONDHOLDERS' CLAIMS ISSUE IN PARIS ONLY TO MAKE IT CLEAR THAT WE CONSIDERED THIS A MATTER NOT RPT NOT DEALT WITH BY PRIVATE CLAIMS/BLOCKED ASSETS AGREEMENT WHICH NEITHER SIDE HAS TO ADDRESS AT THIS TIME. BONDHOLDERS' CLAIMS DATE FROM BEFORE 1949 WHEREAS CLAIMS BEING SETTLED ARE POST-1949. WE DID NOT INTEND TO IMPLY THAT WE WERE URGING PRC TO TAKE ANY PRESENT ACTION WITH REGARD TO BONDS OR THAT WE BELIEVED THAT, AS A PRACTICAL MATTER, BONDHOLDERS IN U.S. WERE LIKELY TO HINDER TRADE DEVELOPMENT BETWEEN PRC AND U.S.

3. WE DO NOT RPT NOT BELIEVE THAT BONDHOLDERS' CLAIMS ARE LIKELY TO PROVE A SIGNIFICANT OBSTACLE TO TRADE. SINCE DEFAULTING ON PAYMENT OF CHINESE GOV'T BONDS (WHICH IT CONTINUES TO RECOGNIZE AS VALID LEGAL OBLIGATION) TAIWAN HAS CONTINUED TO TRADE WITH U.S. WITHOUT HARASSMENT FROM BONDHOLDERS. MOREOVER, DEFAULTED OR REPUDIATED BONDS HAVE NOT NOTABLY HINDERED OUR COMMERCIAL TRANSACTIONS WITH A NUMBER OF OTHER COUNTRIES, SUCH AS THE USSR, POLAND, ROMANIA, CZECHOSLOVAKIA. ONE REASON ATTACHMENT HAS NOT BEEN A PRACTICAL DANGER HAS BEEN CONSIDERABLE EXPENSE TO CLAIMANT COUPLED WITH LOW LIKELIHOOD OF SUCCESS.

E. WE TRADITIONALLY LEAVE DEFAULTED BOND CLAIMS TO BE NEGOTIATED BETWEEN GOVERNMENT CONCERNED AND FOREIGN BONDHOLDERS' PROTECTIVE COUNCIL (PRIVATE ORGANIZATION REPRESENTING INTERESTS OF ALL U.S. BONDHOLDERS). WE DO NOT RPT NOT ESPOUSE CLAIMS BASED ON DEFAULTED BONDS AT INTERGOVERNMENTAL LEVEL. WE HAVE TAKEN NO POSITION ON WHETHER OR NOT GOVERNMENT OF PRC IS LEGALLY
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OBLIGATED TO PAY THESE BONDS.

F. NOT ONLY WOULD WE NOT RPT NOT ENCOURAGE AN EFFORT BY BONDHOLDERS TO ATTACH CHINESE PROPERTY, WE WOULD SEEK ACTIVELY TO DISCOURAGE SUCH AN ATTEMPT. IN ANY EVENT, WE HAVE NO INFORMATION TO SUGGEST BONDHOLDERS THINKING ALONG LINES OF ATTACHMENT, AND, IN VIEW OF CONSIDERATIONS DESCRIBED ABOVE, DOUBT THEY WOULD ATTEMPT

IT.

G. WE HOPE THAT PRC UNDERSTANDS WE DO NOT RPT NOT WISH TO INCLUDE BONDHOLDERS' CLAIMS IN PRESENT CLAIMS SETTLEMENT BECAUSE TO DO SO WOULD BE CONTRARY TO OUR SETTLEMENT BECAUSE TO DO SO WOULD BE CONTRARY TO OUR PRACTICE AND WOULD RAISE MANY UNNECESSARY PROBLEMS OF LEGAL AND PRACTICAL NATURE.

H. (AT YOUR DISCRETION) IF BOND CLAIMS WERE INCLUDED IN THE CLAIMS/ASSETS SETTLEMENT, IT WOULD IMPLY THAT THE PRC ACCEPTS LIABILITY FOR EVEN LARGER AMOUNT OF THESE BONDS HELD BY NON-AMERICANS, AND OTHER BONDS.

I. IF PRC HAS ANY OTHER TECHNICAL PROBLEMS WITH CLAIMS SETTLEMENT AS PROPOSED, WE HOPE THAT IT WILL LET US KNOW BEFORE SECRETARY'S TRIP SO THAT WE MAY BE PREPARED TO DISCUSS THEM.

2. (FYI: LEGAL AND PRACTICAL PROBLEMS REFERRED TO ABOVE INCLUDE REDUCING AMOUNT OF MONEY AVAILABLE FOR PRO RATA COMPENSATION OF OUR CLAIMANTS AND POSSIBLE RESULTING PROBLEMS WITH BOTH CLAIMANTS AND CONGRESS. THERE IS ALSO SUCCESSOR GOVERNMENT ISSUE, I.E., PRC SETTLEMENT OF BONDS WITH U.S. WOULD CONSTITUTE U.S. AND PRC RECOGNITION OF PRC AS LEGITIMATE SUCCESSOR GOVERNMENT TO ROC ON CHINA MAINLAND AT TIME WHEN U.S. CONTINUED TO RECOGNIZE ROC, RESULTING IN CLEAR TWO CHINAS SITUATION.) IN THIS CONNECTION WE NOTE ALSO THAT BONDHOLDERS' CLAIMS HAVE NOT HINDERED PRC TRADE WITH THIRD COUNTRIES, EVEN THOSE THAT RECOGNIZE PRC AS SUCCESSOR GOVERNMENT TO ROC. KISSINGER

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END QUOTE. INGERSOLL

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